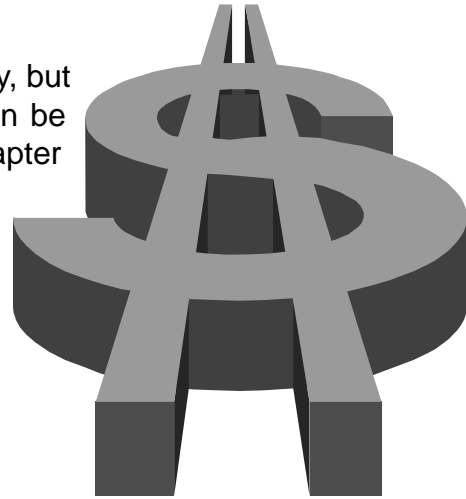

Contributions and Other Receipts

WHAT IS A CONTRIBUTION?

The term “contribution” not only encompasses money, but also the vast majority of items and services that can be given to a candidate or his or her committee. This chapter describes what is, and what is not, a contribution; discusses limitations, and in some cases absolute prohibitions, on certain sources of contributions; describes the different types of contributors; and reviews the time limitations regarding contributions.



Definition of a Contribution

KRS 121.015(6)

- Ø Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent or a committee;
- Ø Payment by any entity other than the candidate or his authorized treasurer, of compensation for the personal services of another person which are rendered to the candidate;
- Ø Goods, advertising, or services with a value of more than \$100, in the aggregate, in any one (1) election which are furnished without charge, or at a rate which is less than the rate normally charged for the goods or services;
- Ø Payment by any person or entity other than a candidate or his authorized treasurer for any goods or services with a value of more than \$100 in the aggregate, in any one (1) election which are utilized by the campaign.

TYPES OF CONTRIBUTIONS

Monetary Contributions

KRS 121.015(6)(a)

A contribution of money to a candidate that is received in the form of cash, check, draft, money order, or cashier's check is considered a monetary contribution. Limitations exist concerning the acceptance of different forms of monetary contributions. See pages 24-25.

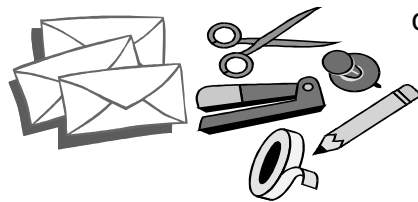


In-kind Contributions

KRS 121.015(6)(b), (c)

An in-kind contribution is a non-monetary contribution consisting of goods or services, offered free or at less than the usual charge. Similarly, when a person pays for services on the candidate's behalf, the payment is an in-kind contribution.

An expenditure made in cooperation, coordination, or consultation with or at the request or suggestion of the campaign is also considered an in-kind contribution to the candidate.



In-kind contributions are treated as any other contribution and are subject to the same contribution limits and reporting requirements. Limits are discussed on pages 22-23.

Exceptions (In-kind Contributions)

KRS 121.015 (6)(c)

Under limited exceptions in the law, persons may provide incidental goods or services to a campaign without making a contribution. In-kind donations that are valued at *less than \$100* do not qualify as contributions until the aggregate value per contributor exceeds \$100 per election. *In order a for campaign to know when a contributor has exceeded the \$100 limit, itemized records on all contributors must be kept.*

When services are volunteered, not paid for by anyone, the activity is not considered a contribution. However, payment by a contributor other than the candidate or their treasurer to compensate the personal services of another rendered to the campaign is considered a contribution regardless of the amount of the payment.

The Value of Discounts

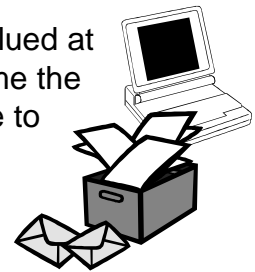
32 KAR 2:170 § (1), (4)

If *goods or services* are provided at less than the rate normally charged, or at an unreasonably low charge, the amount of the in-kind contribution is the difference between the amount normally charged for the goods and services at the time of the contribution and the amount actually charged. A *discount* received that is available to the general public is not an in-kind contribution.

Goods

32 KAR 2:170 § (1), (4)

Goods, such as equipment, supplies, mailing lists and facilities, are valued at the price the item or facility would cost if purchased or rented at the time the contribution is made. For example, if someone donates a fax machine to the campaign, the contribution equals the fair market price of the fax machine at the time of the contribution.

**Services**

32 KAR 2:170 § (1), (4)

Services, such as advertising, printing, or consulting, are valued at the prevailing rate at the time the services are rendered. The value is the fair market value of the service provided.

Loans from Individuals

KRS 121.015(6)(a); KRS 121.015(7); KRS 121.150(13)

Loans other than bank loans are considered contributions and are subject to contribution limits. Candidates for statewide office (excluding Slates) shall not lend in excess of \$25,000 in any one (1) election to his or her campaign. In campaigning for all other offices no candidate shall lend to his or her campaign more than \$10,000 in any one (1) election.



Any personal or family loan that is forgiven must be reported as a contribution. The campaign may not accept a loan from anyone other than the candidate in excess of the contribution limit. An unpaid loan, when added to other contributions from the same contributor, may not exceed the contribution limit. Once repaid in full, a loan no longer counts against the donor's contribution limit.

All loans must be continuously reported as debts until fully repaid. In the event a lender forgives a loan in whole or in part, the amount of the canceled debt is treated as a contribution and subject to the contribution limits. A candidate should report a canceled debt as an in-kind contribution.

Candidate Contributions

KRS 121.160(2)(a); KRS 121.220

Candidates may donate items or money to their own campaigns in unlimited amounts. Although there is a limit on how much can be reimbursed (see Loans on page 19).

The personal funds of a candidate used in connection with seeking elective office must be deposited directly into the campaign account. If a candidate gives money to his or her campaign account and expects to be repaid, it must be treated as a loan when first received.

If a candidate donates personal items for the benefit of the campaign and does not expect reimbursement, the value of the items should be reported as an in-kind contribution from the candidate. If the candidate makes direct campaign expenditures from the candidate's own funds, this amount would have to be reimbursed to the candidate from the campaign account.

Surplus Campaign Property

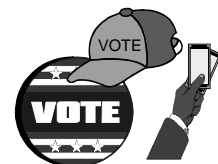
If the campaign decides to terminate, it must liquidate all assets, dispose of excess funds in a manner permitted by statute (see page 97), and file a final report showing a zero balance. Campaign paraphernalia or signs are considered to be of no value to anyone besides the campaign and it is understood that they cannot be liquidated.

However, if these materials are stored by the candidate until the next election and are donated to the new campaign they must be assessed at the fair market value and reported as an in-kind contribution from the candidate to his or her campaign.

Proceeds from Sales

KRS 121.180(5)

Contributions include proceeds from the sale of tickets for events, such as luncheons, dinners, rallies, and similar fund-raising events; mass collections made at events, and sales of items such as campaign pins, buttons, hats, and shirts. The purchaser of tickets or items is the contributor, even if the tickets or items are given to others. Therefore, the campaign should record all contributions made by purchasing tickets or items.

***Extension of Credit***

32 KAR 2:180

An extension of credit outside a creditor's ordinary course of business may be considered a contribution.

TYPES OF CONTRIBUTORS

Natural Person

KRS 446.010(26)

For the purpose of applying the campaign finance laws, a “natural person” referred to in KRS Chapter 121 is an individual human being. “Individual” as used in this Guide refers to a natural person.

Minor

KRS 121.150(5)

For the purpose of applying the campaign finance laws, a “minor” is an individual who will not be 18 years old on or before the date of the next general election.

Person

KRS 446.010(26)

“Person” is not defined by KRS Chapter 121; therefore the Registry has applied the definition of “person” provided in KRS 446.010(26) to all sections of KRS Chapter 121. KRS 446.010(26) defines “person” generally to include bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies.

Contributing Organization

KRS 121.015(4)

A “contributing organization” is a group of individuals that merely contributes to a candidate from time to time, from funds derived solely from within the group and not solicited or received from sources outside the group itself. Contributing organizations must report to the Registry when any contributions made by the group exceed \$100.

Permanent Committee (PAC)

KRS 121.015(3)(c)

A permanent committee is a permanent organization functioning on a regular basis throughout the year having as a primary purpose expressly advocating the election or defeat of clearly identified candidates. These groups are registered with the Registry, the FEC, or another state. Some groups are affiliated and share a contribution limit.

State or County Executive Committee

KRS 121.015(3)(d)

A state executive committee is a state-level political party committee. A county executive committee is a county level political party committee.

Out-of-State Contributor

An individual who resides, or a committee or group which operates, outside of Kentucky may contribute to Kentucky candidates. Contributions from out-of-state contributors are subject to the same restrictions as Kentucky residents, groups, and committees.

Partnership Contributions

KREF Advisory Opinion 1998-012

Partnerships may contribute to candidates in one of two ways. First, a partnership may qualify as a contributing organization under KRS 121.015, and may contribute a maximum of \$1,000 per year. Second, the partners may contribute individually from funds derived from the partnership. If a partnership check is issued in lieu of separate checks from the individual partners, the campaign must obtain sufficient information from the partnership (including the percentage of each partner's interest) to itemize the contribution between the partners. See pages 54-56.

**CONTRIBUTION LIMITS**

KRS 121.150(6)

The maximum contribution from an individual (excluding minors), PACs and Contributing Organizations to a candidate (excluding school board candidates) is \$1,000 per election. The contribution allowable from persons who will not reach the age of 18 on or before the next general election is \$100. See page 25 for further details on PAC & Executive Committee contribution restrictions.

Contributions by an individual to a school board candidate are limited to \$100 per election and contributions from a PAC or Contributing Organization to a school board candidate are limited to \$200 per election.

Executive Committees may contribute unlimited amounts to candidates (excluding Slates). But, candidates have a limit on the amount they may receive . See page 25 for further details.

Contribution Limits^①		
	TO A CANDIDATE	TO A SCHOOL BOARD CANDIDATE
FROM AN INDIVIDUAL	\$1,000 per election KRS 121.150(6)	\$100 per election KRS 121.150(6)
FROM A PAC	\$1,000 per election ^③ KRS 121.150(6)	\$200 per election ^③ KRS 121.150(6)
FROM A CONTRIBUTING ORGANIZATION	\$1,000 per election KRS 121.150(6)	\$200 per election KRS 121.150(6)
FROM A CORPORATION	PROHIBITED KRS 121.025 & KRS 121.035	PROHIBITED KRS 121.025 & KRS 121.035
FROM AN EXECUTIVE COMMITTEE	UNLIMITED ^④ KRS 121.150(26)	UNLIMITED ^④ Consult party rules.
CASH^② CONTRIBUTIONS	\$50 per election KRS 121.150(4)	\$50 per election KRS 121.150(4)
ANONYMOUS CONTRIBUTIONS	\$50 per election (Maximum aggregate \$1,000 per election) KRS 121.150(3)	\$50 per election (Maximum aggregate \$1,000 per election) KRS 121.150(3)

① In-Kind contributions are subject to the same limits as monetary contributions.

② Contributions by cashier's check or money order are limited to \$50 per election unless the instrument identifies the payor and payee.

③ Candidates may not retain more than 50% of their total contributions, or \$10,000, whichever is greater, per election from PACs. KRS 121.150(26)(a).

④ The contributions given by an Executive Committee are unlimited. However, the contributions accepted from an Executive Committee are limited. The limit is based on the total contributions of a candidate per election. The amount the candidate retains cannot be more than 50% of his or her total contributions, or \$10,000, (whichever is greater). KRS 121.150(26)(b)

LIMITATIONS ON DIFFERENT FORMS OF CONTRIBUTIONS

Anonymous Contributions

KRS 121.150(3)

Candidates may not accept anonymous contributions in excess of \$50 per contributor, per election. An anonymous contribution in excess of \$50 must be returned to the donor, if the contribution can be traced. If the donor cannot be determined, the contribution shall escheat to the state for deposit into the election campaign fund, which will be used to fund the public financing program for gubernatorial campaigns.



The total anonymous contributions received by a campaign may not exceed \$1,000 per election. Anonymous contributions in excess of the aggregate limit also escheat to the state and are deposited into the election campaign fund.

- Ø Money received from an event or activity such as a fish fry, raffle, concession sales, or from the sale of campaign paraphernalia, is a contribution. If the campaign does not have records of individual purchasers, the sales are anonymous contributions, and the campaign may only accept an anonymous contribution up to \$1,000 in the aggregate per election.

Cash Contributions

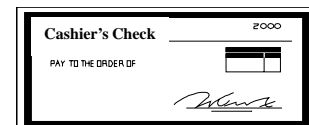
KRS 121.150(4)

Candidates may not accept cash contributions in excess of \$50 per contributor, per election.

Contributions by Cashier's Check or Money Order

KRS 121.150(4)

A candidate may not accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. If both are identified the instrument may be accepted like a check.



Contributions by Minors

KRS 121.150(5)

A candidate may not accept a contribution in excess of \$100 from any person who will not become 18 years of age on or before the date of the next general election.

PAC Contributions - Restrictions

KRS 121.150(26)(a)

PAC contributions may not exceed 50% of a candidate's total contributions for an election or \$10,000, whichever is greater. If PAC receipts exceed the allowable limits, a candidate may, within 60 days following the election, adjust his or her percentage of PAC receipts by contributing his or her own money to the account or returning contributions to PACs that were made after the limit had been reached. Funds carried forward from one election to the next are not considered in making the PAC funds calculation. Remember that the Primary election and the General election are two separate elections and require two separate calculations.

Executive Committee Contributions - Restrictions

KRS 121.150(26)(b)

Executive Committee contributions may not exceed 50% of a candidate's total contributions for an election or \$10,000, whichever is greater. If Executive Committee receipts exceed the allowable limits, a candidate may, within 60 days following the election, adjust his or her percentage of Executive Committee receipts by contributing his or her own money to the account or returning contributions to Executive Committees that were made after the limit had been reached. Funds carried forward from one election to the next are not considered in making the Executive Committee funds calculation. Remember that the Primary election and the General election are two separate elections and require two separate calculations.

NOTES:

ITEMS NOT CONSIDERED CONTRIBUTIONS

KRS 121.015(6)(c); 121.015(7); 32 KAR 2:170 § 1(5), 2

- Ø An in-kind donation does not meet the statutory definition of contribution until the aggregate total of all in-kinds from a single contributor exceeds \$100.
- Ø Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a campaign are not contributions.
- Ø A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business is not a contribution.
- Ø Independent expenditures are not contributions. Independent expenditure “means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them.”

KRS 121.015(12)

Treasurer’s Services

KRS 121.160(6); 32 KAR 2:170 § 1(3)

Kentucky campaign finance law specifically excludes “services provided without compensation” from the definition of a contribution. However, the law provides that a campaign may pay a treasurer a salary for his or her services.

Many times treasurers are professional accountants or certified public accountants who volunteer their professional services. However, any use by the campaign treasurer of his or her office’s corporate assets should be billed to the campaign and paid for with campaign funds.



Volunteer Activity

32 KAR 2:170 § (5)

An individual may volunteer a portion or all of his or her time to provide personal services to a campaign without making a contribution, as long as the individual is not compensated by anyone for the services. If a volunteer is on paid vacation leave (or on leave time that he or she has earned) when working for the campaign, the volunteer's vacation pay does not count as a contribution to the campaign. If a volunteer is paid on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit, no contribution results.



Note, however, that if individuals are, in fact, paid for their services by someone other than the campaign itself, the activity is no longer considered volunteering, and the payments constitute in-kind contributions that must be reported by the campaign. The payor would be making an in-kind contribution to the campaign.

Generally, if an individual provides services to a campaign during paid working hours, the employer makes a contribution to the campaign. However, note that if the employer is a corporation, the contribution is unlawful.

In-kind Expenditures Under \$100

KRS 121.015(6)(c)

Expenditures of \$100 or less made by a person are not considered contributions. Individuals may spend up to \$100 for goods, advertising or services with a value of \$100 or less without making a contribution. This exemption was designed to stimulate grassroots activity. Although these expenditures are not considered contributions they should be recorded by the campaign. When an in-kind expenditure exceeds \$100, it is considered a contribution and must be reported.

Any amount spent by an individual in excess of \$100 must be reported as an in-kind contribution to the campaign.

Loans

KRS 121.015(7)(b)

A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business is not a contribution.



Independent Expenditures

KRS 121.015(7)(c) & (12); KRS 121.150(1)

An independent expenditure is defined by statute as follows:

[T]he expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate or slate of candidates, campaign committee, or any authorized person acting on behalf of them, and which is not made in concert with or at the request or suggestion of any candidate or slate of candidates, campaign committee, or any authorized person acting on behalf of any of them. KRS 121.015(12)

Independent expenditures are not subject to any limits, but are subject to reporting requirements. Individuals, committees and other groups who make independent expenditures exceeding \$500 in the aggregate in any one election **are required to report** directly to the Registry.

See the following page for an example of a reporting form.

NOTES:

KENTUCKY REGISTRY OF ELECTION FINANCE

140 Walnut Street; Frankfort, KY 40601 (502) 573-2226 FAX (502) 573-5622

KREF 013

REGISTRY USE

REPORT OF AN INDEPENDENT EXPENDITURE

NOTE: KRS 121.015(12) and 121A.010(13) provides as follows: "Independent expenditure' means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them."

If you make an "independent expenditure", you are required to report all such expenditures when you spend in excess of \$500 in the aggregate in one election. KRS121.150(1)

Your Name and Address _____ _____ _____ Telephone _____		Your Occupation and Employer _____ _____ Spouse's Name _____ Spouse's Occupation _____ Spouse's Employer _____		
Name of Candidate/Committee		Office Sought _____ Supported _____ Opposed		
Constitutional Amendment		Election _____ Supported _____ Opposed		
Date	To Whom Made	Address	Purpose	Amount

I certify that this report was prepared with all reasonable diligence and is true, correct, and complete. I further certify under penalty of perjury that this expenditure was not made with any coordination, consultation, or cooperation with the candidate or committee on whose behalf it was made.

Date_____
Signature

PROHIBITED CONTRIBUTIONS

Corporate Contributions

KRS 121.025; KRS 121.035; KRS 121.150(22) & (23)

Kentucky campaign finance law strictly prohibits corporate contributions to candidates, either directly or indirectly. These statutory provisions reflect Section 150 of the Kentucky Constitution, which prohibits corporations from giving money or any other thing of value to influence an election in the Commonwealth.

The prohibition on corporate contributions to candidates and committees that support candidates for election extends to all corporate types, including non-stock corporations, solely owned corporations, not-for profit corporations, S-corporations and professional service corporations (PSCs).

The prohibition on corporations does not extend to other types of business entities, such as partnerships, including limited liability partnerships (LLP), limited liability companies (LLC), sole proprietorships or unincorporated associations. Additionally, there is nothing that prohibits the officers or employees of a corporation from establishing a Permanent Committee through segregated funds. A contribution from a duly established Permanent Committee (PAC) to a candidate is permissible provided no actions to influence the election may be attributed to the corporation itself.

The prohibition against receiving corporate contributions applies to both monetary and in-kind contributions. Monetary contributions include checks or money orders from a corporate entity or cash transmitted from a corporation to a campaign. A campaign should review every check for corporate identifiers, such as “Inc.”

To determine whether an entity is organized as a corporation, a campaign may verify the entity’s status by calling the Secretary of State’s Office, Division of Corporate Records at (502) 564-7330 or by consulting the Secretary of State’s on-line business database at <http://www.sos.state.ky.us/corporate2/entityname.asp>.

In-kind contributions from a corporation must also be avoided. A discount provided to a candidate by a corporation that is otherwise not available to the general public or the forgiveness of a debt owed by the candidate to a corporation constitutes an illegal, in-kind, corporate contribution. Any unreimbursed use of corporate property, such as computers, telephones, or postage, for the benefit of a candidate constitutes an illegal corporate contribution. A campaign that uses corporate property should prorate the value of its use and keep detailed records of bills assessed by the corporation and payments made by the campaign. These transactions must be disclosed on the campaign’s financial reports.

Charitable Contributions

KRS 121.150(2)

Solicitations from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good are expressly prohibited.

Contributions in the Name of Another

KRS 121.150(12)

A contribution made by one person in the name of another is prohibited. For example, an individual who has already contributed up to his or her limit to the candidate may not give money to another person to make a contribution. Similarly, a business is prohibited from using bonuses or other methods of reimbursing employees for their contributions. Parents may not make a contribution in the name of a child.

If an individual who does not have a checking account wants to make a contribution, the campaign should advise the individual to purchase a money order or to obtain a cashier's check, and to clearly identify on the written instrument both the payor and the payee.

Foreign Nationals

2 U.S.C. § 441e; 11CFR § 110.4(1); 22 U.S.C. § 611

A candidate may not accept contributions from foreign nationals. A foreign national is an individual who is not a citizen of the United States, and not lawfully admitted for permanent residence. Individuals with a green card may make political contributions. Contributions from an entity organized under the laws of a foreign country or having its principal place of business in a foreign country are prohibited.

Contributions from Other Candidates

KRS 121.180(10)

Contributions from another candidate's campaign account are prohibited, except that another candidate may purchase tickets to a fund raiser or other event up to \$100 per event or affair.

Contributions After the Election

KRS 121.150(14), (16) & (17); 32 KAR 2:100

Once a candidate is elected, defeated, or has withdrawn, he or she may no longer accept contributions for that election. Any contributions made after this time must be returned to the contributor and cannot be used or expended. See 32 KAR 2:100 concerning acceptance of contributions on election day.

Federal Campaign Accounts

KRS 121.150(27)

Candidates may not accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account.

Questionable Contributions

When a campaign receives a contribution of questionable legality, it should return the contribution to the donor without depositing it, as the negotiation of the check establishes the receipt of the contribution. The campaign should retain in its internal records a written record or a photocopy of the contribution, and clearly note why the contribution was returned.

If a campaign decides to keep a questionable contribution while determining whether the contribution is acceptable, the contribution should not be deposited until the campaign has received information in writing from the contributor. The campaign should maintain written records of all efforts to obtain documentation, and should retain all such documentation.

Finally, if the campaign deposits a contribution that appears on its face to be legal and later discovers that it is prohibited, based on information that was not available when the contribution was deposited, the campaign should immediately refund the contribution. The deposit must be reported as a contribution, and the refund must be reported on Schedule 1 of the Election Finance Statement, as a “receipts adjustment.”

Circumventing the Limits

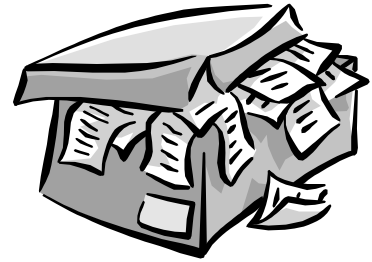
KRS 121.150(9)

No person shall contribute funds to a candidate, political issues committee, or contributing organization for the purpose of circumventing the contribution limits.



OTHER REPORTABLE RECEIPTS

The campaign must report all receipts. However, some receipts are not contributions. The following are **not** considered contributions:



Offsets to Operating Expenditures

Offsets to operating expenditures, such as returns by vendors of deposits and refunds, are not considered contributions. They should be recorded on Schedule 2 of the Election Finance Statement as “negative disbursements.”

Bank Loans

KRS 121.015(7)(b)

A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business is not a contribution. All bank loans, regardless of amount, are recorded as “other receipts” to the campaign.



Interest Income

Interest earned on invested funds is not considered a contribution, but is reported as “other receipts”, on Schedule 1A of the Election Finance Statement.

Notes:

Notes: